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Message Text

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---------- 052578
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FM SECSTATE WASHDC
TO AMEMBASSY DOHA

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EXDIS

E.O. 11652:N/A

TAGS: BGEN, PFOR, PINR

SUBJECT: REQUEST FOR GUIDANCE FOR REPORTING ON ACTIVITIES OF AMERICAN CITIZENS ABROAD AND BRIBERY BY US FIRMS OPERATING ABROAD

REFS: (A) DOHA 786; (B) STATE 114551; (C) USIA-IPS 17 OF 6/

DEPARTMENT FULLY AGREES THAT RECENT DISCLOSURES OF ILLICIT PAYMENTS BY U.S. COMPANIES ABROAD RAISE IMPORTANT QUESTIONS CONCERNING THE RESPONSIBILITIES OF U.S. DIPLOMATIC AND CONSULAR PERSONNEL WITH RESPECT TO SUCH ACTIVITIES AND THAT IT WOULD BE BENEFICIAL TO ISSUE NEW GUIDANCE TO POSTS ON THESE MATTERS. WE ARE CURRENTLY CONSIDERING THE POSSI-
BILITY OF NEW GENERAL INSTRUCTIONS WHICH MIGHT BE INCLUDED IN FAM. PENDING DEVELOPMENT OF SUCH FORMAL INSTRUCTIONS,
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YOU SHOULD BE GUIDED BY THE FOLLOWING;

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1. UNDER NO CIRCUMSTANCES SHOULD EMBASSY CONDONE OR COOPERATE WITH ANY EFFORT BY U.S. NATIONAL OR FOREIGN GOVERNMENT OFFICIAL TO NEGOTIATE BRIBE OR OTHER ILLICIT PAYMENT. IN THE EVENT OF INQUIRIES FROM ANY SOURCE AS TO U.S. ATTITUDE TOWARD SUCH TRANSACTIONS, YOU SHOULD INDICATE THAT USG STRONGLY CONDEMNS ILLEGAL PAYMENTS BY U.S. NATIONALS ABROAD, DRAWING UPON DEPARTMENT'S PUBLIC STATEMENT (REF. B) AND TESTIMONY OF DEPUTY LEGAL ADVISER FELDMAN (REF. C). CONSONANT WITH THIS POLICY, EMBASSY SHOULD ONLY RECOMMEND RETENTION OF AGENTS WHEN IT BELIEVES THAT SUCH AGENTS ARE NECESSARY OR USEFUL FOR THE PERFORMANCE OF LEGITIMATE SERVICE TO U.S. NATIONALS.

2. WITH RESPECT TO REPORTING ALLEGED ILLEGAL ACTIVITIES OF U.S. NATIONALS ABROAD, YOU SHOULD KNOW THAT DEPARTMENT IS OPPOSING PROPOSED LEGISLATION TO ESTABLISH SUCH REPORTING RESPONSIBILITY ON THE GROUND THAT SURVEILLANCE OF U.S. NATIONALS ABROAD IS NOT A PROPER FUNCTION OF THE FOREIGN SERVICE AND THAT INVESTIGATION OF ILLICIT ACTIVITIES OF FOREIGN OFFICIALS WOULD INVOLVE IMPROPER INTERVENTION IN THE INTERNAL AFFAIRS OF OTHER COUNTRIES. AT THE SAME TIME, EMBASSIES ARE EXPECTED TO REPORT INFORMATION THAT COMES TO THEIR ATTENTION WHICH CLEARLY INDICATES A VIOLATION OF U.S. LAW. THERE IS NO COMPARABLE RESPONSIBILITY WITH RESPECT TO VIOLATION OF FOREIGN LAW. HOWEVER, WE WOULD EXPECT AN EMBASSY IN THE NORMAL COURSE TO REPORT ON ANY MATTER, INCLUDING IMPROPER OR ILLEGAL ACTIVITIES OF U.S. NATIONALS, THAT HAVE A BEARING ON U.S. RELATIONS WITH OR INTERESTS IN THE HOST COUNTRY. UNDER NO CIRCUMSTANCES, HOWEVER, SHOULD EMBASSY ENGAGE IN SURVEILLANCE OF OR INVESTIGATION INTO PERSONAL AFFAIRS OF U.S. NATIONALS WITHOUT EXPRESS AUTHORIZATION FROM THE DEPARTMENT.

3. EMBASSY IS CORRECT TO BE MINDFUL OF THE CIVIL RIGHTS OF U.S. NATIONALS. UNDER THE NEW PRIVACY ACT THAT WILL ENTER INTO FORCE IN SEPTEMBER, U.S. NATIONALS WILL HAVE THE RIGHT WITH VERY LIMITED EXCEPTIONS TO EXAMINE AND TO CONTEST THE ACCURACY OF ANY REFERENCE TO THEM IN LIMITED OFFICIAL USE

AGENCY RECORDS. IN DUE COURSE ELABORATE REGULATIONS AND GUIDANCE WILL BE ISSUED TO IMPLEMENT THE PRIVACY ACT. REPORTING OFFICERS ALSO HAVE TO BE MINDFUL OF THE POSSIBILITY OF LIBEL ACTIONS BEING BROUGHT IN THE FUTURE BY AGGRIEVED CITIZENS ALTHOUGH TRUTH, OFFICIAL IMMUNITY AND OTHER DEFENSES SHOULD GENERALLY PROTECT OFFICERS FROM LIABILITY. ACCORDINGLY ALL SUCH REPORTING SHOULD BE ENTIRELY FACTUAL AND PRECISE WITH A MINIMUM OF INFERENCE,

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SPECULATION OR CHARACTERIZATION.

4. FOREGOING IS NOT INTENDED TO ADDRESS SPECIAL CHARACTERISTICS OF REPORTING IN INTELLIGENCE CHANNELS. SUCH GUIDANCE SHOULD BE OBTAINED THROUGH ESTABLISHED CHANNELS. INGERSOLL

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